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14 UNITED STATES DISTRICT COURT

15 FOR THE CENTRAL DISTRICT OF CALIFORNIA

16 UNITED STATES OF AMERICA,  
17 Plaintiff,  
18 v.  
19 JOHN JACOB OLIVAS,"  
20 Defendant.  
21  
22  
23

ED CR No. 18-231-JGB

UNITED STATES' SUPPLEMENT IN  
SUPPORT OF MOTION IN LIMINE TO  
ADMIT ADDITIONAL EVIDENCE  
CONCERNING WITNESSES M.O. AND C.N.  
(DKTS. 193, 196); EXHIBIT 2

Trial Date: November 29, 2022  
Trial Time: 9:00 a.m.  
Location: Courtroom of the  
Hon. Jesús G. Bernal

24 Plaintiff United States of America, by and through its counsel  
25 of record, the United States Attorney for the Central District of  
26 California and Assistant United States Attorneys Eli A. Alcaraz and  
27 Frances S. Lewis, hereby files a Supplement in Support of its Motion  
28

1 in Limine to Admit Additional Evidence Concerning Witnesses M.O. and  
2 C.N. (Dkts. 193, 196).

3 At the October 24, 2022 status conference, after a discussion  
4 about the Court's plan to permit the United States to present at  
5 trial prior statements by defendant from a September 2015 state  
6 change of plea hearing and a continuance for the defense to adjust to  
7 the admission of such statements, counsel for the United States let  
8 the Court know that it had additional details relevant to the Court's  
9 analysis whether to permit M.O. (sometimes referred to as M.H. in  
10 other filings) to testify about additional topics. The Court told  
11 counsel for the United States to file the additional information.  
12 This filing submits Exhibit 2, which is transcript of an October 2017  
13 interview of M.H.

14  
15 Dated: October 26, 2022

Respectfully submitted,

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20 /s/Eli A. Alcaraz  
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**MEMORANDUM OF POINTS AND AUTHORITIES**

Pending before the Court is the United States' Motion in Limine to Admit Additional Evidence Concerning Witnesses M.O. and C.N. (Dkts. 193, 196.) In particular, concerning M.O. the United States seeks to introduce testimony that (1) defendant threatened M.O. with his agency-issued service weapon when they were in her car during an argument and (2) defendant bear hugged her and held her over a pool until she agreed to go on a trip with him. (Dkt. 196 at 8.)

The United States described M.O.'s prior trial testimony, which included defendant leading M.O. to believe during an argument that law enforcement would not come to her aid if she called 911 because he told the Riverside Police Department to disregard any calls to his residence that day, in its motion in limine. (Dkt. 196 at 2-3.) The United States connected the additional requested testimony to trial testimony. (Dkt. 196 at 3-4.) The Court had permitted the admission of this testimony because of its similarity to defendant's use of his power and authority to make similar threats to N.B. during their relationship when she also wanted to leave, but defendant would not let her.

The Court should admit the two additional incidents between defendant and M.O. because, now with the benefit of trial testimony, it is clear how they also parallel the testimony of the charged victims and satisfy Rule 404(b). Admission of the additional incidents will also rebut the mistaken impression created at the last trial that defendant's efforts to stop M.O. from leaving during the pretend 911 call were merely the product of a caring boyfriend. Exhibit 2 contains a transcript of an October 2017 interview with M.O., which provides more detail to the gun incident and the pool

1 incident. The additional details, briefly described below, confirm  
2 that the testimony is admissible and relevant to show defendant's use  
3 of his federal law enforcement power and agency-issued firearm was no  
4 mistake. The gun incident and pool incident -- just as the pretend  
5 911 incident -- show his motive, identify, intent, modus operandi,  
6 and lack of accident or mistake.

7 As the Court knows from the first trial, M.O.'s incident where  
8 defendant relied on his federal law enforcement power to intimidate  
9 her from calling the police took place in spring 2013. (RT 12/1/21  
10 at 170-83; see also Ex. 2 at 27-28.) In M.O.'s October 2017  
11 interview, she explained that defendant brought up that he carried  
12 his gun "often" and would "show off" by "tak[ing] his gun and  
13 put[ting] it on his lap" and how she was intimidated by it. (Ex. 2  
14 at 9.) She figured it was alright because "he was [a] federal  
15 agent." (Ex. 2 at 9.)

16 In September 2013 approximately 4-6 months after the call  
17 incident with M.O., defendant and M.O. were sitting in her car in the  
18 driveway of defendant's house. (Ex. 2 at 34-35.) Defendant "was  
19 sitting in the passenger seat" and M.O. and defendant were talking  
20 about marriage and "[w]e ended up getting into an argument and I said  
21 that I'm gonna leave." (Ex. 2 at 35.) "It was one of those . . .  
22 'You know what? I'm just gonna leave. Get out of my car.'" (Ex. 2  
23 at 35.) "[P]er usual, . . . he had his gun on his lap a lot. He had  
24 his gun on his lap and he was like . . . he picks it up and like  
25 kinda points it at me to the side and he's like, 'You're not going  
26 anywhere.'" (Ex. 2 at 35-36.) When asked to confirm details, M.O.  
27 said the muzzle was pointed at her, that defendant was in the  
28 passenger seat, and she was in the driver's seat. (Ex. 2 at 36.)

1 M.O. recounted that defendant either said (1) "You're not going  
2 anywhere" or (2) "You're gonna die before you're gonna go anywhere."  
3 (Ex. 2 at 36.) They had not been drinking that day. (Ex. 2 at 36.)

4 Important for the Court's analysis, M.O. did not call the police  
5 "because it's John." (Ex. 2 at 38.) She was asked if she would have  
6 called the police if the same thing had happened with her boyfriend  
7 from 2017 and she said she would have called. (Ex. 2 at 38.) She  
8 responded, "Yeah," when asked "Was it because [defendant] was a cop  
9 and you're afraid of calling the police?" (Ex. 2 at 39.) She added,

10 **"I think I was intimidated by the fact that he was . . . a fed."**

11 (Ex. 2 at 39 (emphasis added).) **"I thought he had like pull I**

12 **guess."** (Ex. 2 at 39 (emphasis added).) She even connects her  
13 decision not to call the police to the prior call from spring 2013

14 (which was what she testified about at the first trial) -- "And

15 probably from the prior phone calls. I mean it just kinda all . . .

16 together started add[ing] up and it was like I didn't think anyone

17 would ever believe anything I had to say." (Ex. 2 at 39.) She said,

18 "Exactly," when asked, "At this point you don't call the police

19 because you're afraid the police won't help you cause John's a fed?"

20 (Ex. 2 at 39.) M.O. said, "[H]e would make things sound like he

21 would turn it against me" and "it's my word against a Fed. You known

22 that's how I felt. I was like oh geez. Like I don't even wanna

23 . . . push the issue because once I do that he's gonna make up a

24 story about me and it you know. It . . . he's gonna switch it

25 around." (Ex. 2 at 40.) The details of this incident show how

26 defendant used his HSI-issued gun against M.O. and how he had over

27 time convinced her that because of his power and position that local

28 law enforcement would not come to her aid.

1        Concerning the pool incident, it was in the summer of 2013 at  
2 defendant's house in Riverside. (Ex. 2 at 19-20.) Defendant had  
3 previously parked his car behind M.O.'s car or moved the couch in  
4 front of the door to prevent her from leaving the house. (Ex. 2 at  
5 21.) Defendant wanted to go to New Mexico and wanted M.O. to go with  
6 him. (Ex. 2 at 24.) They had been dating a few months. (Ex. 2 at  
7 24.) M.O. explained, "I think there was always arguments. . . . [W]e  
8 were just in an argument about something and I was like you know I  
9 don't even want to go. . . . I don't want to be in a car with you  
10 for 14 hours or whatever it is. . . . [I]t was the night before and  
11 I was telling him like, I don't wanna go." (Ex. 2 at 24.) Defendant  
12 told her, "No, you're going" and "it just escalated to the point  
13 where . . . he picked me up. Took me to the backyard and then . . .  
14 was holding me over the pool." (Ex. 2 at 25.) **"I think he bear**  
15 **hugged."** (Ex. 2 at 25 (emphasis added).) M.O.'s belief was "you're  
16 threatening someone if you're over a pool." (Ex. 2 at 25.) As part  
17 of this escalation, defendant caused her to scrape her leg "[c]ause  
18 like he was like literally dragging me down." (Ex. 2 at 25-26.)  
19 M.O.'s interpretation was "this guy is completely psychotic." (Ex. 2  
20 at 26.) M.O. confirmed defendant "wasn't playful." (Ex. 2 at 26.)  
21 The pool incident ended because "I think that I had to like actually  
22 agree [to go with him] and then it was like, okay." (Ex. 2 at 30.)

23        The additional detail in this supplement on the gun incident and  
24 the pool incident support permitting M.O. to expand her prior  
25 testimony with details about how defendant abused his power and HSI-  
26 issued firearm to intimidate and threaten M.O. to get what he wanted  
27 from her. Such testimony is relevant and admissible to show motive,  
28

1 identify, intent, modus operandi, and lack of accident or mistake of  
2 defendant concerning the charged assaults.